

MEMORANDUM

TO: Mayor Craig Brown and Members of Council

CC: City Manager Office, Executive Leadership Team, City Attorney Office

FROM: Sally Bakko, Director of Policy and Governmental Relations

DATE: August 11, 2023

RE: Legislative Report: Austin and Washington Update

Please find below an update on legislative activities in Austin and Washington. *(To access links below, control+click on link.)*

San Jacinto Region 6 Regional Flood Planning Group Update

On July 25, the Texas Water Development Board (TWDB) approved the fifteen (15) regional flood plans that will lay the foundation for Texas' first state flood plan, which is due to the Texas Legislature in September 2024. TWDB will conduct a detailed review of the regional flood plans and follow up inquiries with regional flood planning groups will begin in October.

This first regional flood planning cycle, established by SB 8 passed during the 86th Regular Session in 2019, involved 15 regions with volunteer representatives from various interest categories. Brian Maxwell was the Coastal Communities Representative, a voting member of the Region 6 San Jacinto Regional Flood Planning Group. While the first cycle was completed under an abbreviated timeframe, subsequent planning cycles will be every five years.

The first state flood plan, currently being drafted by the TWDB, will summarize findings from the regional flood planning groups and include the recommended flood mitigation projects from the regional plans, making them eligible to receive financial assistance through the [Flood Infrastructure Fund](#).

The following City of Galveston flood management projects, evaluations, and strategies are listed in the Region 6 San Jacinto Flood Plan: Projects – 37th Street drainage project (\$37 million), freeboard requirement enforcement (\$100,000), land use mapping (\$11,000); Evaluations – coastal road elevation (\$1 million), dune restoration (\$1 million), master drainage study (\$1 million), shoreline protection (\$50,000); Strategies – repetitive loss and severe repetitive loss property mitigation (\$80,000), National Flood Insurance Program Community Rating System (CRS) activities (\$10,000), City floodplain manager training and certification (\$10,000).

Austin Update

TWDB State Water Fund FAQs

The Texas Water Development Board (TWDB) recently released “[Senate Bill 28 and Texas Water Fund Frequently Asked Questions](#).” The FAQ provides information on [S.B. 28](#) and [S.J.R. 75](#), which provide up to \$1 billion in funding for water infrastructure and water supply projects through the establishment of the Texas Water Fund contingent upon voter approval in November. The document outlines which funds or

accounts will be supported by S.B 28 and S.J.R 75, priorities of the water fund, and information on the new programs created including the New Water Supply Fund, the Rural Water Assistance Fund, and the water loss audit technical assistance program.

TWIA Board Votes on 0 Percent Rate Increase, Other Administrative Actions

While meeting at the Tremont House in Galveston on Tuesday, August 8th, the Texas Windstorm Insurance Association (TWIA) Board of Directors approved a zero (0) percent rate increase when submitting the annual rate filing the Texas Department of Insurance (TDI) Commissioner by the August 15 statutory deadline.

The Board took the following actions during the meeting:

- Directed staff to file for no changes to the TWIA's maximum liability limits with TDI.
- Approved the staff recommendation to continue the contract with Aon for catastrophe modeling services with another Request for Proposal (RFP) in 2026.
- Received an update on a project to study agent commissions.
- Directed staff to notify the Texas Comptroller of Public Accounts that the entire Catastrophe Reserve Trust Fund balance be kept available to fund the payment of insured losses.

The TWIA Board is scheduled to meet next at the Omni Hotel in Corpus Christi on December 12th.

State Legislative Highlights:

1. HB 471 Paid Line of Duty Injury and Illness Leave for First Responders

[H.B. 471](#), currently in effect, establishes mandatory paid leave for certain city employees who suffer an illness or injury while on duty.

Line of duty injury or illness leave. A city must provide a first responder with a leave of absence for an illness or injury related to the first responder's line of duty. Eligible paid city employees include: permanent firefighters, emergency medical services personnel, and full-time licensed police officers who regularly serve in a professional law enforcement capacity in the city's police department ("first responders"). Fire chiefs and police chiefs also qualify for injury or illness leave.

Timeframes for line of duty injury or illness leave. A first responder is entitled to a leave of absence with full pay for a period commensurate with the nature of the line of duty illness or injury, and if necessary, the leave of absence shall continue for at least one year. At the end of the leave of absence, a city may extend the leave at full or reduced pay.

Leave of absence extensions. If the leave of absence and any extension granted by the city has expired, a first responder who requires additional leave shall be placed on temporary leave (timeframe not defined in bill). A first responder who is temporarily disabled by a line of duty injury or illness and who has exhausted his or her leave of absence and any related extension, may use accumulated sick leave, vacation time, and other accrued benefits before being placed on temporary leave.

Light duty assignments. If able, a first responder may return to light duty while recovering from a temporary disability. If medically necessary, the light duty assignment may continue for at least one year.

Job restoration rights. A first responder who has recovered from a temporary disability shall be reinstated to the same rank and with the same seniority he or she had before going on temporary leave. Also, another first responder may voluntarily perform the injured first responder's work until the first responder returns to work.

H.B. 471 line of duty illness or injury leave and labor agreements. A collective bargaining agreement, meet and confer agreement, or other similar labor agreement that provides a benefit for an ill or injured first responder must provide a benefit that, at a minimum, complies with the provisions of H.B. 471.

H.B. 471 line of duty illness or injury leave and the Workers' Compensation Act. H.B. 471 provides that any benefits provided under the Workers' Compensation Act shall be offset, to the extent applicable, by

any amount for incapacity received under the provisions of the bill. Any benefits a first responder is entitled to under workers' compensation will be diminished by any benefits an employee receives under the provisions of H.B. 471.

2. SB 224 Catalytic Converter Theft

The Legislature passed [S.B. 224](#), effective immediately. The bill increases penalties for catalytic converter thefts and establishes a new felony offense for unauthorized possession of a catalytic converter. The bill creates a presumption that a person in possession of two or more catalytic converters unlawfully obtained the catalytic converters unless the person can prove he or she is the owner or possesses them as part of his or her ordinary course of business. Cities may not: (1) adopt rules or ordinances that restrict the purchase, acquisition, sale, transfer, or possession of catalytic converters by metal recycling entities, automotive wrecking and salvage yards, automotive repair shops, automotive parts recyclers, law enforcement, among others; or (2) alter or impose additional recordkeeping requirements on metal recycling entities. However, the bill requires metal recycling entities to allow city representatives and peace officers to inspect the entity's records on request during its usual business hours and preserves city authority to impose permit and licensing requirements for metal recycling entities.

3. SB 1413 Removal of Personal Property

Effective immediately, [S.B. 1413](#) authorizes a city fire department to remove personal property from a roadway or right-of-way if the property blocks a roadway or endangers public safety. Prior to this bill, only law enforcement officials and transit authorities were permitted to remove personal property in these instances. The bill requires a city's governing body to develop and implement a policy regarding how the fire department will consult with law enforcement agencies to remove the property. In addition, the bill obligates the owner or carrier of the personal property that is removed to reimburse the city fire department for reasonable costs associated with the removal and disposal. The bill also protects fire departments from liability for any damage the property sustains as a result of removing the property, unless the removal is carried out recklessly or in a grossly negligent manner.

4. HB 718 Elimination of Paper Tags

[H.B. 718](#) eliminates the use of: (1) temporary paper vehicle buyer tags issued by car dealerships; and (2) temporary paper one-trip and 30-day permits issued by the Texas Department of Motor Vehicles and local county tax offices. The bill now requires that these entities issue metal license plates instead of paper tags. The bill also creates a criminal offense for illegally displaying, selling, or distributing a metal license plate issued in these instances. H.B. 718 is effective on July 1, 2025.

Washington Update

DOL to Publish Rule Updating Prevailing Wage Regulations Under Davis-Bacon

This week the Department of Labor (DOL) prepares to [publish](#) a rule updating prevailing wage regulations issued under the Davis-Bacon and Related Acts, which require payment of locally prevailing wages and fringe benefits on federally funded or assisted construction projects. Changes in the proposed rule will include restoring a prior definition of "prevailing wage" to make the prevailing wage equivalent to the wage paid to at least 30 percent of workers, rather than 50 percent of workers, in a given trade in a locality; make changes to keep prevailing wages up to date; and strengthen enforcement. The final rule ([see here](#)) is under review prior to publication in the Federal Register. You can also access [Frequently Asked Questions](#), [Comparison Chart](#), and [Webinar Registration](#).

EEOC Proposes Rule to Implement Pregnant Workers Fairness Act

On Monday the U.S. Equal Employment Opportunity Commission (EEOC) [issued](#) a Notice of Proposed Rulemaking (NPRM) to implement the *Pregnant Workers Fairness Act* (PWFA). The PWFA requires covered employers to provide reasonable accommodations to a worker's known limitations related to pregnancy, childbirth, or related medical conditions, unless the accommodation will cause the employer an undue hardship. The [proposed rule](#) explains how the EEOC proposes to interpret the PWFA, including certain terms in the statute, and provides examples of possible reasonable accommodations. The EEOC also solicits information and comments on particular issues through the NPRM; comments may be submitted for 60 days following publication in the *Federal Register*.

EPA Announces \$115 Million to Reduce Diesel Engine Pollution

Last week the Environmental Protection Agency (EPA) [announced](#) the availability of \$115 million in grant funding for projects that reduce pollution from existing older diesel engines. Under the Diesel Emissions Reduction Act (DERA) grant funding competition, the agency anticipates making 4-10 awards in each of its ten regions to eligible applicants. Applicants may request funding to upgrade or replace older diesel-powered buses, trucks, marine engines, locomotives and nonroad equipment with newer, cleaner technologies. The funding opportunity is open through December 1.

Reports of Interest

[NOAA forecasters increase Atlantic hurricane season prediction to "above normal"](#)

National Oceanic and Atmospheric Administration, August 10, 2023